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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

THOMAS FERNANDEZ, LORA SMITH and TOSHA THOMAS, individually and on behalf of a class of all others similarly situated,	)	Case No. C06-07339 CW
	)	
	)	<b>[PROPOSED]</b>
	)	<b>ORDER GRANTING DEFENDANTS</b>
	)	<b>K-M INDUSTRIES HOLDING CO.,</b>
Plaintiffs,	)	<b>INC., K-M INDUSTRIES HOLDING</b>
	)	<b>CO. INC. ESOP PLAN COMMITTEE,</b>
v.	)	<b>AND CIG ESOP PLAN</b>
	)	<b>COMMITTEE’S ADMINISTRATIVE</b>
K-M INDUSTRIES HOLDING CO., INC.,	)	<b>MOTION TO FILE SEPARATE</b>
<i>et al.</i> ,	)	<b>REPLY UNDER SEAL</b>
	)	<b>(Docket No. ____)</b>
Defendants.	)	

Defendants K-M Industries Holding Co., Inc., K-M Industries Holding Co., Inc. ESOP Plan Committee and CIG ESOP Plan Committee (“KMH”) move for leave to file under seal portions of their separate reply brief in support defendants’ motions for summary judgment. The Separate Reply contains information that was held to be confidential in connection with KMH’s administrative motion to seal certain documents when it filed its motion for summary judgment.

KMH's request is made in connection with a dispositive motion. Accordingly, the

1 documents may not be filed under seal unless there is a “compelling interest” in doing so. Pintos v.  
2 Pac. Creditors Ass’n, 504 F.3d 792, 801-03 (9th Cir. 2007). This is because the public interest  
3 favors filing all court documents in the public record. A compelling interest cannot be established  
4 simply by showing that the document is subject to a protective order or is considered confidential by  
5 a party, but rather must be supported by a sworn declaration demonstrating with particularity the  
6 need to file each document or portion thereof under seal. See id.; Local Rule 79-5(a).

7 KMH has filed a declaration in support of its motion. In the declaration, KMH designates the  
8 following portions of the Separate Reply as either privileged or confidential, or both:  
9 page 1:12-14, page 1:15-17, page 1:20-23, page 2:13-15, and page 2:17-19.

10 KMH has established that these portions of the Separate Reply contain sensitive financial  
11 information or attorney-client communications for which a compelling interest exists to file under  
12 seal.

13 Accordingly, KMH’s motion for leave to file under seal is GRANTED. The clerk shall file  
14 under seal KMH’s Separate Reply in Support of Defendants’ Motions for Summary Judgment with  
15 the foregoing portions redacted.

16 IT IS SO ORDERED.

17 Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Claudia Wilken  
United States District Judge  
Northern District of California